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OFFICE OF PETITIONS

In re Application of	:	
CORBO	:	DECISION
Application No. 09/899,711	:	ON PETITION
Filed: July 5, 2001	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed February 24, 2005 under 37 CFR 1.181(no fee) for withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

To summarize, a rejection of the claims of the above-identified application was made final on July 13, 2004. A Response to Final Office Action was received on October 18, 2004 (certificate of mailing of October 13, 2004). No Advisory Action was sent. A Request for Continued Examination (RCE) was filed on January 3, 2005, requesting entry of the October 13, 2004 amendment. Both the Response and the RCE included the wrong application number (09/889,711 instead of the correct application number 09/899,711). A Notice of Abandonment was mailed to Applicant on February 4, 2005.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP §§502 and 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted and the entire record, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file. Our records reflect that a RCE was filed on January 3, 2005 improperly identifying the wrong serial number (09/889,711) but otherwise having sufficient information to identify the correct application (09/899,711). Petitioner includes as evidence an itemized postcard receipt showing a USPTO date stamp of January 3, 2005 of the RCE, Express Certificate of Mailing, and a check for \$395. This postcard also includes the incorrect application number but otherwise contains sufficient information (Applicant's name) to identify the correct application. Additionally and in accordance with 37 CFR 1.114(d) "if applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action[.]" As such once the RCE was filed, the finality of the July 13, 2004 Office Action was withdrawn. Based on the above, the holding of abandonment is withdrawn, and this application is recognized as never having been abandoned in the first instance.

The RCE was filed within the statutory period set forth in 35 USC 133. General authorization to charge an extension of time fee under the provision of 37 CFR 1.136 and 1.17 was provided in the RCE. The three-month extension of time fee will be charged to the deposit account provided.

As a final note, Office records indicate that the wrong application number has been included on numerous papers (e.g., Petition to Withdraw the Holding of Abandonment, RCE dated January 3, 2005 and the after-final amendment dated October 13, 2004) filed in the PTO. To assist the Office in matching papers with the above-identified application, please use the correct application number (09/899,711) in the future.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Art Unit 3714 for further processing.

A handwritten signature in cursive script that reads "Frances Hicks". The signature is written in black ink and is positioned above the printed name.

Frances Hicks
Petitions Examiner
Office of Petitions